

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

DATE: March 6, 1997
OMC009705

SUBJECT: Determination of TSCA Applicability on Chlorinated Organic Sampling at the
OMC Site

FROM: Michael E. Bellot, EPA RPM *W. E. B.*

TO: File

This memo documents a discussion with Tony Martig of the Pesticides and Toxics Branch, Toxics Program (Toxic Substance Control Act (TSCA)), regarding the chlorinated organic sampling requirement in the Outboard Marine Company (OMC) Operation and Maintenance Plan (O&M Plan), incorporated as an appendix to the October 7, 1988, Consent Decree.

The issue revolves around the requirement that groundwater be tested for chlorinated organics per 40 CFR 761.75 in addition to PCBs, as defined in Section 3.0 Groundwater Monitoring of the August 22, 1988, O&M Plan. During the course of the revision of the O&M Plan, a question arose whether Superfund has the discretion to allow OMC to petition out of this chlorinated organic sampling requirement (pursuant to a non-specific petition provision in the O&M Plan), or whether this is a requirement under the purview of TSCA. Upon conferring with his supervisor, John Connell, Tony Martig indicated that although the reference to 40 CFR 761.75 is a TSCA landfill requirement, this is not a permitted TSCA landfill and not a TSCA binding requirement. Further, TSCA was not identified as an ARAR in the Record of Decision. Based on this information, Superfund appears to have discretion in the decision to consider modifying the chlorinated organic sampling requirement under the O&M Plan.

cc: Tony Martig, EPA
Larry Schmitt, EPA

